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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

IHC HEALTH SERVICES, INC., dba
MCKAY-DEE HOSPITAL,

Plaintiff,

v.

OFFICE OF PERSONNEL
MANAGEMENT,

Defendant.

)
) **COMPLAINT**
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) Case No. 2:15-cv-00918-PMW
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) Magistrate Judge Paul M. Warner
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Plaintiff, through its undersigned counsel, complains and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, IHC HEALTH SERVICES, INC. (“IHC”), operates several hospitals in the Intermountain Area, including MCKAY-DEE HOSPITAL (the “Hospital”), in Ogden, Utah.
2. IHC and the Hospital may be referred to collectively herein as “Plaintiff.”
3. OFFICE OF PERSONNEL MANAGEMENT (“OPM” or “Defendant” herein) is a federal government body.

4. OPM was, at all relevant times herein, the health insurer for F.R., the patient whose claim for medical treatment is at issue herein.
5. Regence BlueCross Blueshield (“Regence”) was an agent of OPM at all times relevant to this action.
6. F.R. was, at all times relevant herein, a Utah resident.
7. The Plaintiff provided medical services to F.R. at the Hospital from January 7, 2013, to January 31, 2013 (“DOS1”) and again from February 1, 2013, to February 28, 2013 (“DOS2”).
8. At the time of service, F.R. was 55 years of age.
9. F.R. signed an Assignment of Benefits (“AOB”) in favor of the Plaintiff for the claim which is in dispute herein.
10. The Defendant provided medical benefits to F.R. through the Federal Employees Health Benefits Plan (“FEHBP”).
11. This is an action brought under the Federal Employees Health Benefit Act of 1959 (“FEHBA”). This Court has jurisdiction of this case under 5 U.S.C. §8912. Venue is appropriate under 5 U.S.C. §703 because the communications during the administrative appeal process took place between the Plaintiff and the Defendant in the State of Utah, and the breaches of FEHBA and the Plan occurred in the State of Utah.
12. The remedies Plaintiff seeks under the terms of the PEHBP are for the benefits due, and for other appropriate relief that the court deems just in the circumstances.

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FACTUAL BACKGROUND

A. Medical Treatment

13. Plaintiff realleges and incorporates by reference all paragraphs of this Complaint as though fully set forth herein.
14. F.R. was treated by the Hospital on DOS1 and DOS2.
15. The Plaintiff's total billed charges for the treatment rendered to F.R. at the Hospital on DOS1 and DOS2 were \$39,423.84 ("Billed Charges").

B. Claims and Claim Processing

16. The Hospital submitted a claim to the Defendant and/or Regence for F.R.'s treatment in a timely manner.
17. The Defendant paid \$0.00 to the Hospital for these claims, leaving \$39,423.84 unpaid.
18. The Defendant contends that F.R.'s medical treatment and stay at the Hospital was experimental/investigational.
19. The Defendant has provided no supporting evidence to the Plaintiff to support these contentions.
20. F.R.'s treating physicians believed all of his treatment was medically necessary and warranted for the injuries he had.
21. The parties (or their agents) have communicated many times by letter, fax, and telephone as set forth in the electronic and written records kept by the Plaintiff of the communications it has had with the Defendant (or its agent) during the appeal process.
22. A copy of the Plaintiff's communication records was sent to the Defendant's agent, Regence, prior to this litigation being filed.

- 23. The Defendant has not paid the outstanding balance due to the Hospital for the treatment it rendered to F.R..
- 24. The balance of \$39,423.84 is still due to the Hospital by the Defendant for the services it rendered to F.R..

FIRST CAUSE OF ACTION

(Recovery of Plan Benefits Under 5 U.S.C. §8904)

- 25. Plaintiff realleges and incorporates by reference all paragraphs of this Complaint as though fully stated herein.
- 26. The Plaintiff is a beneficiary of the Plan and stands in the shoes of F.R. pursuant to the AOB.
- 27. The Plaintiff has submitted all proof necessary to the Defendant or its agents to support its claim for payment.
- 28. The Defendant has failed to provide evidence to the Plaintiff to support its basis for denial.
- 29. The Defendant has denied, without support for its position, the Plaintiff's claims for the medical expenses it incurred in treating F.R..
- 30. The Defendant has not fully reviewed or investigated all information sent to it by the Plaintiff, or available to it, which has caused the Defendant to deny this claim.
- 31. The Defendant has failed to bear its burden of proof that an exclusion or requirement in the Plan Document supports its denial of the claim for F.R.'s treatment.
- 32. The Defendant failed to offer the Plaintiff a "full and fair review."
- 33. The actions of the Defendant, as outlined above, are a violation of the FEBHA, and a breach of the terms and provisions of the Plan.

34. The actions of the Defendant have caused damage to the Plaintiff in the form of a denial of medical benefits.

35. The Defendant is responsible to pay the claims for F.R.'s medical expenses.

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

1. For judgment on Plaintiff's First Cause of Action in favor of the Plaintiff and against the Defendant pursuant to 5 U.S.C. §8904, for unpaid medical benefits in the amount of \$39,423.84.
2. For such other relief as the Court deems appropriate.

DATED this 31st day of December, 2015.

MARCIE E. SCHAAP, ATTORNEY AT LAW, P.C.

By: /s/ Marcie E. Schaap
Marcie E. Schaap, Attorney for Plaintiff